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September 3, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
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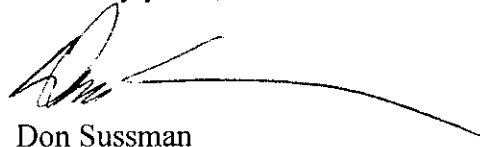
Re: In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170,
Ameritech Petition for Stay, and Clarification or Reconsideration; Cable Plus,
L.P. and MultiTechnology Services, L.P. Petition for Expedited, Temporary
Waiver; SBC Communications Inc. Petition for Waiver or Stay; Sprint
Corporation Petition for Stay or Waiver and Partial Clarification ;
United States Telephone Association for an Expedited Waiver or Stay; U.S. West
Communications Inc. Petition for Relief from Two Truth-in-Billing Mandates
Pending Conclusion of Reconsideration Process

Dear Ms. Salas:

Enclosed herewith for filing are the original and four (4) copies of MCI WorldCom's Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI WorldCom Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,


Don Sussman

Enclosure
DHS

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SEP 03 1999

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

**Truth-in-Billing
and
Billing Format**

CC Docket No. 98-170

**Ameritech Petition for Stay, and Clarification
or Reconsideration**

**Cable Plus, L.P. and MultiTechnology Services,
L.P. Petition for Expedited, Temporary Waiver**

SBC Communications Inc. Petition for Waiver or Stay

**Sprint Corporation Petition for Stay or Waiver
and Partial Clarification**

**United States Telephone Association for an Expedited
Waiver or Stay**

**U.S. West Communications Inc. Petition for Relief from
Two Truth-in-Billing Mandates Pending Conclusion of
Reconsideration Process**

MCI WORLDCOM, INC. COMMENTS

**Don Sussman
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September 3, 1999

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Summary

Between July 16, 1999 and July 29, 1999, Ameritech, Cable Plus and MultiTechnology Services, SBC, Sprint, USTA, and US West filed petitions for waiver, stay, and other forms of relief from the guidelines in the Truth-in-Billing Order. All cite a need for stay or waiver of certain aspects of the truth-in-billing rules because development of billing systems needed to implement the truth-in-billing rules would significantly drain resources already dedicated to ensuring Year 2000 (Y2K) readiness.

MCI WorldCom does not object to granting the petitioners' request for stay or waiver of the truth-in-billing rules, as long as the Commission makes clear that service providers (e.g., IXC's) relying on these petitioners for billing services are not held liable for implementing the truth-in-billing rules, related to the affected end users, during the period for which the requested relief is granted. MCI WorldCom also agrees with petitioners that (1) until the rules are finalized and it is clear that the significant investment in billing systems development is indeed necessary, carriers should not be held liable for implementation of the Commission's truth-in-billing rules; (2) carriers should not be liable for compliance with the truth-in-billing requirements in complex arms-length business transactions where the billing format is negotiated; and (3) if the Commission determines that carriers must implement section 64.2001(a)(2) of its rules, which states that telephone bills must include "notification to the customer that a new provider has begun providing service," then the Commission should define "new service provider" as a changed or new presubscribed service provider.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:

**Truth-in-Billing
and
Billing Format**

CC Docket No. 98-170

**Ameritech Petition for Stay, and Clarification
or Reconsideration**

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and Partial Clarification**

**United States Telephone Association for an Expedited
Waiver or Stay**

**U.S. West Communications Inc. Petition for Relief from)
Two Truth-in-Billing Mandates Pending Conclusion of)
Reconsideration Process)**

MCI WORLDCOM, INC. COMMENTS

I. Introduction

In the Truth-in-Billing Order, the Commission adopted rules and requirements to ensure that carriers' charges, practices, classifications and regulations for and in connection with interstate services are just and reasonable, pursuant to Section 201(b) of the Communications

Act.¹ These rules require (1) that consumer telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers; (2) that bills contain full and non-misleading descriptions of charges that appear therein; and (3) that bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges on, the bill.²

Between July 16, 1999 and July 29, 1999, Ameritech, Cable Plus and MultiTechnology Services, SBC, Sprint, USTA, and US West filed petitions for waiver, stay, and other forms of relief from the guidelines in the Truth-in-Billing Order. All cite a need for stay or waiver of certain aspects of the truth-in-billing rules because development of billing systems needed to implement the truth-in-billing rules would significantly drain resources already dedicated to ensuring Year 2000 (Y2K) readiness.

MCI WorldCom, Inc. (MCI WorldCom), does not object to granting the petitioners' request for stay or waiver of the truth-in-billing rules, as long as the Commission makes clear that service providers (e.g., IXC's) relying on these petitioners for billing services are not held liable for implementing the truth-in-billing rules, related to the affected end users, during the period for which the requested relief is granted. MCI WorldCom also agrees with petitioners that (1) until the rules are finalized and it is clear that the significant investment in billing systems

¹ In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72, released May 11, 1999 (Truth-in-Billing Order).

² Id at ¶5

development is indeed necessary, carriers should not be held liable for implementation of the Commission's truth-in-billing rules; (2) carriers should not be liable for compliance with the truth-in-billing requirements in complex arms-length business transactions where the billing format is negotiated; and (3) if the Commission determines that carriers must implement section 64.2001(a)(2) of its rules, which states that telephone bills must include "notification to the customer that a new provider has begun providing service," then the Commission should define "new service provider" as a changed or new presubscribed service provider.

II. The Commission Should Delay the Effective Date of Truth-in-Billing Rules until Such Rules Are Finalized, and Can Be Implemented in an Efficient, Uniform Manner

Ameritech, Cable Plus and MultiTechnolgy Services, SBC, Sprint, USTA, and US West all cite a need for stay or waiver of certain aspects of the truth-in-billing rules because development of billing systems needed to implement the truth-in-billing rules would significantly drain resources already dedicated to ensuring Year 2000 (Y2K) readiness.³ The petitioners also argue that, even if the drain on financial and human resources is overlooked, the required systems development is so complex and far reaching (i.e., involving every billed service), that carriers cannot complete the required billing systems development by the expected

³ Ameritech Petition at 3; Cable Plus and MultiTechnolgy Services Petition at 3; SBC Petition at 3-6; Sprint Petition at 2; USTA Petition at 1; US West Petition at 3.

effective date of September 6, 1999.⁴ These carriers optimistically believe that they will require, at minimum, an additional six months in order to fully comply with the Commission's truth-in-billing requirements.⁵

MCI WorldCom does not object to granting the petitioners' request for stay or waiver of the truth-in-billing rules, as long as the Commission makes clear that service providers (e.g., IXC's) relying on these petitioners for billing services are not held liable for implementing the truth-in-billing rules, related to the affected end users, during the period for which the requested relief is granted. Additionally, as highlighted by Sprint, since IXC's would have difficulties generating LEC-specific feeds, and ILECs would find it costly and unworkable to receive different data feeds/formats from each of the numerous IXC's for which they perform billing and collection functions, if the Commission delays, stays, or waives, either in part or in its entirety, the effective date of the Truth-In-Billing Order for any or all of the petitioners, the granted relief should uniformly be granted to all carriers.⁶ Absent such action, a patchwork of billing systems and standards could develop, increasing even more the cost to industry of implementing the

⁴ For example, see Sprint Petition at n. 4 noting the thousands of product descriptions that must be analyzed and evaluated to develop billing systems that comply with the Commission's truth-in-billing rules.

⁵ For example, Ameritech requests an extension until at least April 1, 2000 (Ameritech Petition at 2); US West cannot complete systems modification before the end of January, 2000 (US West at 3); Sprint's new bill will not be ready until the first quarter of 2000 (Sprint Petition at 6); SNET will not be prepared until October 2, 1999, and SWBT, Pacific Bell and Nevada Bell will not be able to fully comply with the truth-in-billing rules until March, 2000 (SBC Petition at 4-5).

⁶ Sprint Petition at 15.

Commission's truth-in-billing rules.

MCI WorldCom also agrees with petitioners that argue that the truth-in-billing rules should be stayed or waived until the rules are finalized.⁷ The petitions filed in the instant proceeding, as well as the petitions for reconsideration filed in this docket on July 26, 1999, demonstrate that many fundamental issues have not yet been resolved, including whether the Commission even has jurisdiction to require carriers to identify intrastate services as either deniable or nondeniable, and whether it is the billing agency or the service provider that is responsible for determining whether a charge is deniable or nondeniable. Petitioners have demonstrated that the cost to develop systems required to implement the truth-in-billing requirements, in terms of person hours and dollars, is significant.⁸ Until the rules are finalized and it is clear that the significant investment in billing systems development is indeed necessary, carriers should not be held liable for implementation of the Commission's truth-in-billing rules.

III. The Commission Should Eliminate its Requirement That Carriers Must Identify "Deniable" and "Nondeniable" Charges on Consumer Invoices

Deniable charges are those charges that, if unpaid, could result in the termination of local exchange or long distance telephone service. Non-deniable charges are those charges for which

⁷ At a minimum, the Commission's rules should be stayed or waived until the Commission rules on pending petitions for reconsideration; ideally, the Commission's rules would be stayed or waived until all appellate challenges have been settled (see US West Petition at 3-4).

⁸ For example, Sprint projects that a minimum of 45,000 hours and \$4.5 million will be needed through the first quarter of 2000 to define requirements, code, test, and install needed billing systems (Sprint Petition at 6), and Cable Plus and MultiTechnology Services estimates it would require 2200 person hours, costing from \$220,000 to \$350,000, to modify its billing system (Cable Plus and MultiTechnology Services Petition at 3).

basic communications services would not be terminated for non-payment. In the Truth-in-Billing Order, the Commission requires carriers to make clear when non-payment for service would result in the termination of the consumer's basic local service, where carriers include in a single bill both deniable and nondeniable charges.⁹ The Commission determined that its authority to mandate this requirement -- as well as the truth-in-billing principles generally, derive from both §201(b) and §258 of the Act.¹⁰

US West correctly argues in its petition that the Commission's requirement that carriers make clear when non-payment for service would result in the termination of the consumer's basic local service reaches beyond the Commission's jurisdiction.¹¹ While it is clear that the Commission has authority under §258 to take steps needed to reduce and prevent unauthorized conversions in the interstate and intrastate telecommunications markets, the Commission has not identified, and we agree with US West that it cannot identify, any linkage between a customer knowing which charges, if not paid, will result in termination of basic service and the customer's

⁹ Truth-in-Billing Order at ¶¶44-46.

¹⁰ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (Act).

¹¹ US West Petition at 11-13. The deniability rule is clearly a "regulation ... in connection with intrastate communication service" because it dictates the manner in which charges for local service must be billed. See Texas Office of Public Utility Counsel v. FCC, ___ F.3d ___, 1999 WL 556461, *14 (5th Cir. 1999). Since the 1996 Act does not apply to billing for telephone exchange service, the jurisdictional fence in section 152(b) does not allow this exercise of ancillary jurisdiction by the Commission. See AT&T Corp. v. Iowa Utilities Board, 119 S.Ct. 721, 731 (1999).

ability to prevent or detect unauthorized conversions.¹² As US West correctly argues, identifying which charges would result in termination of basic service if not paid conveys no meaningful information to the customer that would help determine if the carrier providing a service is the carrier which the customer selected, or whether an unauthorized conversion has occurred.¹³ The Commission has failed to demonstrate the nexus between its requirement that carriers make clear when non-payment for service would result in the termination of the consumer's basic local service, and its goal, and Congress' goal, of protecting consumers from unauthorized conversions.¹⁴

Additionally, MCI WorldCom agrees with Sprint that industry is not currently prepared to implement the deniable/nondeniable aspect of the Commission's truth-in-billing rules. Sprint correctly notes that in order to implement Section 64.2001(c) of the Commission's rules, carriers must first develop a uniform database that identifies states having deniable/nondeniable statutes or requirements, the types of charges each state considers nondeniable, and any special additional

¹² MCI WorldCom also believes the Commission should reconsider and eliminate its requirement that carriers identify which charges if not paid will result in termination of basic service because such a requirement will lead to an increase in industry fraud, uncollectables, and rapid change of carriers. The requirement also is not competitively neutral, as it disproportionately affects long distance carriers who overwhelmingly rely on incumbent local exchange carrier billing, without giving any practical opportunity for long distance carriers to make alternative billing arrangements.

¹³ US West Petition at 13.

¹⁴ Nor can the citation contained in its ordering clause to section 4(i) save the Commission's rationale here, since 201(b) and 258 do not permit the Commission to promulgate a "deniability" rule with respect to local service.

requirements that may apply (e.g., whether the policy applies to residential, but not to business).¹⁵

MCI WorldCom believes that it is essential that all carriers apply deniable and nondeniable labeling in a consistent manner on their bills, otherwise the rule will have the unwanted adverse effect of increasing customer confusion.¹⁶

MCI WorldCom also agrees with Sprint that compliance with Section 64.2001(c) is best accomplished on an industry-wide basis, and that matters of industry-wide concern such as this are generally referred to an industry forum, such as the Ordering and Billing Forum (OBF), to ensure that one set of standards is adopted.¹⁷ Sprint correctly notes that, absent national standards, a nationwide carrier which has billing and collection agreements with many LECs, could face a situation in which each LEC has different requirements about how non-deniable charges are to be highlighted, and billing agencies might find it unworkable to receive different data feeds/formats from each of the numerous carriers on whose behalf they bill.¹⁸ MCI WorldCom agrees with Sprint that it is far more cost efficient for an industry forum such as OBF to establish an industry-wide standard before the Commission requires carriers to implement

¹⁵ Sprint Petition at 14-15.

¹⁶ MCI WorldCom disagrees with Ameritech, which presumes that it, and ostensibly other billing agents, have the right to determine unilaterally which charges are deniable or nondeniable. Ameritech Petition at 4. The Truth-In-Billing Order clearly states that the carrier seeking payment for charges, not the billing entity, determines the precise language used to describe those charges for which nonpayment would not result in termination of local service. Truth-In-Billing Order at n.126.

¹⁷ Sprint Petition at 15.

¹⁸ Id.

section 64.2001(c) of its rules.¹⁹

Given the likelihood that the Commission's "deniable/nondeniable" rule will be reversed and remanded in court on jurisdictional grounds, for the above-mentioned reasons, at a minimum, the Commission should stay or waive its deniable/nondeniable rule for all carriers until the rules are finalized.

IV. Carriers Should Not Be Liable for Compliance with the Truth-in-Billing Requirements in Complex Arms-length Business Transactions Where the Billing Format Is Negotiated

In its petition, Ameritech requests that the Commission clarify that its new truth-in-billing requirements do not apply to custom and complex billing for business customers.²⁰ Ameritech explains that the business customers involved in such billing arrangements are typically large, sophisticated telecommunications users that need special billing formats designed to enable them to validate, allocate, and pay their telecommunications billings.²¹ Such customers generally have elaborative systems and procedures to audit and validate their bills, and do not need or want the protection offered by the Commission's new rules.²² Ameritech argues that forced implementation of the Commission's requirements in custom and complex billing arrangements would inflate the cost of serving these customers, and impair the ability of carriers to meet the

¹⁹ Id.

²⁰ Ameritech Petition at 8.

²¹ Id.

²² Id.

billing needs of these customers.

MCI WorldCom fully supports Ameritech's view that the Commission's new truth-in-billing requirements should not apply to custom and complex billing for business customers. MCI WorldCom believes that, in complex arms-length business transactions where the customer has specifically requested or agreed to billing formats and labels that are distinct and different from those mandated by the Commission's Truth-in-Billing Order, (e.g., bills created specifically for certain business customers), carriers should not be liable for compliance with the promulgated truth-in-billing principles and guidelines. Such a clarification is in the public interest because it would permit carriers to develop invoices and customer communications that meet the specific demands of certain customers. Furthermore, in such instances, there would be no valid concern that invoices or messages may not be clear and understandable since their design would be at the behest of the customer.²³

V. Commission Requirements Aimed at Preventing Unauthorized Conversions Should Be Competitively Neutral, Economically Efficient, and Implementable

In the Truth-in-Billing Order, the Commission adopted the principle that telephone bills must be clearly organized and highlight new service provider information. While the Commission did not mandate how carriers organize their customer invoices, it required that

²³ Similarly, carriers should not be found liable where the billing entity has seized control of invoice labeling and messaging. Given the overwhelming control that ILECs have over billing, the Commission should clarify that the carrier who provides service can define invoice messaging and labeling, and the carrier who is sending a bill on a contractual basis cannot interfere with messaging or labeling that is otherwise lawful. Carriers should not be found liable for certain billing arrangements that are not under their control as long as they have made, and can demonstrate that they have made, a good faith effort to comply.

carriers clearly and conspicuously identify on the invoice all service providers billing in the current month that did not bill for services on the previous billing statement.²⁴ The Commission reasoned that clear identification of new service providers will improve consumers' ability to detect slamming because, currently, telephone bills do not always clearly show when there has been a change in presubscribed carriers.²⁵

As MCI WorldCom argued in its Petition for Reconsideration,²⁶ the most efficient way to mitigate unauthorized conversions is a neutral, industry-funded, Third Party Administrator (TPA), as proposed in the Joint Petition, combined with third party verification methods employed by companies such as MCI WorldCom.²⁷ The TPA proposed in the Joint Petition, when combined with such third party verification methods, is consistent with Section 258 and offers customers protection from unauthorized carrier changes in a straight forward manner, and for the first time, would give consumers, government agencies, and carriers a single point of contact that will: (1) quickly resolve customer allegations of unauthorized conversions; (2)

²⁴ Truth-in-Billing at ¶33.

²⁵ Id.

²⁶ In the a Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, filed July 26, 1999.

²⁷ See In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Joint Petition For Waiver, filed By MCI WorldCom, Inc. on behalf of MCI WorldCom, Inc, AT&T Corp., the Competitive Telecommunications Association, Sprint Corporation, the Telecommunications Resellers Association, Excel Communications, Frontier Corporation, and Qwest Communication Corporation on March 30, 1999 (Joint Petition).

independently determine a carrier's compliance with the Commission's verification procedures; (3) honor Commission's requirements that customers be compensated for their inconvenience; and (4) administer carrier-to-carrier liability.

However, if the Commission determines that carriers must implement section 64.2001(a)(2) of its rules, which states that telephone bills must include "notification to the customer that a new provider has begun providing service," then it should define "new service provider" as a changed or new presubscribed service provider. MCI WorldCom agrees with Sprint that section 64.2001(a)(2) of the Commission's rules should not apply to "dial around," casual billed, or operator services, since the providers of these services do not constitute a new provider within the meaning of the rule.²⁸ As MCI WorldCom explained in its Petition for Reconsideration, providing such information regarding dial around, casual billed or operator service providers is not necessary to help control unauthorized conversions since (a) use of dial around, casual billed or operator service providers do not change the customer's presubscribed carrier,²⁹ and (b) the customer authorized the per call dial around service by dialing the additional digits.³⁰ In addition, as Sprint correctly argues in its petition:

²⁸ Sprint Petition at 13.

²⁹While a customer may change his or her preferred carrier for local, interLATA toll, or intraLATA toll during a billing cycle, the selection of a carrier on a call-by-call basis does not commit the customer to a PIC change selection of a calling plan, the risk that the customer inadvertently is billed on the carrier's basic schedule, or a PIC change fee.

³⁰ Also, providing the name of every "dial-around," casual billed, pay-per call, and operator service on the bill which did not appear on the bill in the prior month would substantially increase the expense of providing telecommunications services since most invoices would need

...identification of charges as 'new' merely by virtue of their not having been billed during the preceding month, including any 'new' dial around provider, 'new' operator service provider, 'new' directory assistance provider, or 'new' pay-per-call service provider, will likely cause INCREASED bill complexity and customer confusion.³¹

Regardless of the definition of "new service provider," the Commission should clarify that it is a LEC responsibility to provide the information regarding new presubscribed service providers to customers. Information on presubscribed carriers is maintained in the LEC switches, and given that IXC's do not have real-time access to such information, it would not be possible for IXC's to accurately provide this information to customers on a timely basis. USTA's attempt to shift the burden from billing agents to service providers should be dismissed.³²

Also, the Commission should clarify that any carrier billing system development costs stemming from implementation of section 64.2001(a)(2) are to be borne by all carriers proportionally. As MCI WorldCom argued in its Petition for Reconsideration, the Commission should not allow ILECs to shift their portion of related billing system development costs to interexchange customers through their billing and collection contracts, since ILEC customers, too, will benefit from the added information.³³ All ILECs currently can offer intraLATA toll services and out-of-region interLATA toll services, and all the ILECs except the Regional Bell

to be redesigned and expanded.

³¹ Sprint Petition at 13.

³² USTA Petition at 2.

³³ MCI Petition for Reconsideration at 10.

Operating Companies can offer in-region interLATA toll services. As a result of this requirement, all carriers will have significant billing system development costs; each carrier should pay its own share of compliance with the new guidelines.

VI. Conclusion

In the Truth-in-Billing Order, the Commission adopted rules and requirements to ensure that carriers' charges, practices, classifications and regulations for and in connection with interstate services are just and reasonable, pursuant to Section 201(b) of the Communications Act, and noted that its requirements would help monitor the identity of their service provider, and thereby assist in detecting unauthorized conversions quickly. MCI WorldCom supports these goals. However, unlike the Commission, MCI WorldCom believes competition, not increased regulation, is the best means of advancing these consumer interests. Nevertheless, if the Commission believes that consumers require additional protection, then competitively neutral, economically efficient, and implementable guidelines should be promulgated.

The petitions for waiver, stay, and other forms of relief filed in the above-captioned proceeding demonstrate that the truth-in-billing rules, as presently written, are not competitively neutral, economically efficient, nor implementable in the required time frame. Moreover, it is not clear that the rules, many of which require significant amounts of industry investment, are even lawful. Therefore, MCI WorldCom does not object to granting the petitioners' request for

stay or waiver of the truth-in-billing rules, as long as the Commission makes clear that carriers relying on these carriers for billing services are not held liable for implementing the truth-in-billing rules, and any granted relief is uniformly granted to all carriers.

Respectfully submitted,
MCI WORLDCOM, Inc.

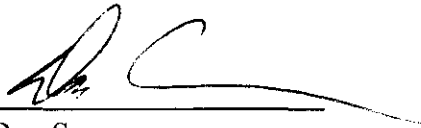
A handwritten signature in black ink, appearing to read 'Don Sussman', written over a horizontal line.

Don Sussman
1801 Pennsylvania Avenue, NW
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September 3, 1999

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on September 3, 1999.

A handwritten signature in black ink, appearing to be 'Don Sussman', written over a horizontal line.

Don Sussman
1801 Pennsylvania Avenue, NW
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CERTIFICATE OF SERVICE

I, Vivian Lee do hereby certify that copies of the foregoing Comments of MCI WorldCom, Inc. were sent via first class mail, postage paid, to the following on this 3rd day of September 1999.

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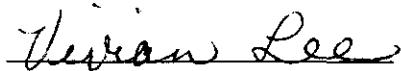
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